

REVISED INTERPRETATION OF THE APPLICABILITY OF THE DAVISON-BACON ACT

Question: Does the Davis-Bacon Act (DBA) prevailing wage requirement in the Recovery Act apply to construction work, including alteration or repair, funded in whole or in part by a Smart Grid Investment Grant (SGIG), which is (1) performed by the regular workforce employed by an investor-owned public utility or cooperative; or (2) contracted to an outside contractor?

Answer: The DBA prevailing wage requirement does not apply to construction work, including alteration or repair, funded in whole or in part by a Recovery Act SGIG, which is performed by the regular workforce employed by an investor-owned public utility or cooperative. On the other hand, the DBA prevailing wage requirement shall apply where an investor-owned public utility or cooperative either: (1) contracts out the work; or (2) hires a temporary workforce or hires additional employees it does not treat as regular employees for purposes of its wage and benefit programs, to perform any construction work, including alteration or repair, funded in whole or in part by a Recovery Act SGIG.

Question: Does “construction, alteration or repair (including painting and decorating),” for purposes of the Davis-Bacon Act (DBA) (Wage Rate Requirements Under Section 1606 of the Recover Act (As Applicable) Clause of the assistance agreement), include installation of a smart meter or energy consumption monitoring network equipment?

Answer: No. As set forth in the determination dated February 7, 2011, by Nancy Leppink, Acting Wage and Hour Administrator, the DBA would not be applicable to the routine installation of a smart meter or energy consumption monitoring network equipment. The result is the same whether the investor-owned public utility or coop performs the routine installation itself or contracts out the work. Routine installation includes: speaking with the customer; taking readings from both the old and new meters; inspecting the old meter and the area; removing the meter cover by cutting or unscrewing the seal, clip, lock or other device on the meter cover; removing and inspecting the old meter; installing the new meter into the socket; and replacing the seal, clip, lock or other device on the meter cover and the meter cover itself. If the meter installation involves any rewiring, installation of circuit breaker boxes, or similar work beyond what is needed for a routine installation or if it is for some other reason necessary to call an electrician, and the work is contracted out, DBA will be applicable.